



11-05-03

1644

EXPRESS MAIL: EL615430405US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Ulrich MARTIN, *et al.*

Application Serial No. 09/917,410

Filed: July 26, 2001

For: **ANTI-SELECTIN ANTIBODIES FOR
PREVENTION OF MULTIPLE ORGAN
FAILURE AFTER POLYTRAUMA AND
FOR PREVENTION OF ACUTE ORGAN
DAMAGE AFTER EXTRACORPOREAL
BLOOD CIRCULATION**

Group Art Unit: 1644

Examiner: Gambel, P.

Confirmation No.: 1409

Attorney's Docket No:
05882.0002.CNUS01

RECEIVED
NOV 12 2003
TECH CENTER 1600/2900

Response to Restriction Requirement

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

Sir:

This is in response to the Office Action mailed on **October 1, 2003**. This Response is filed by the non-statutory due date of **November 3, 2003** (November 1, 2003 falling on a Saturday). Applicants respectfully request the reconsideration of the present Application in view of the following response. It is believed that no further fees are required in order to maintain the pendency of the instant Application. However, if any fees are due, the Examiner is expressly authorized to charge such to our Deposit Account No. 08-3038.

Response

In order to advance prosecution, Applicants make the following clarifications:

The recitation "multiple organ failure of a patient after a polytraumatic event" is the failure of more than one organ following an event that results in a simultaneously acquired injury


of at least two or more organ systems. Injuries resulting from a polytraumatic event are immediately life threatening due to the combination of the injured organ systems or due to the fact that one of the at least two injuries is *per se* life threatening. The recitation “multiple organ failure of a patient after a severe polytraumatic event” is the failure of more than one organ following an extremely intense event that results in a simultaneously acquired injury of at least two or more organ systems. For example, the recitation of “multiple organ failure of a patient after a polytraumatic event” does not read on ischemia-reperfusion if the ischemia-reperfusion did not result from “a polytraumatic event”.

The Examiner requires restriction pursuant to 35 U.S.C. §121 to one of the allegedly two (2) separate and distinct inventions. Applicants elect A) (wherein the L-selectin antibody comprises SEQ ID NOS:2 and 4) with traverse. Claims 1-6, 8-12, and 14-18 are readable thereon. Applicants respectfully assert that anti-L-selectin antibodies comprising either A) SEQ ID NOS: 2 and 4, or B) SEQ ID NOS: 5 and 6 are not patentably distinct. Both are humanized anti-L-selectin antibodies. There is a high percentage of identical amino acid sequences shared between SEQ ID NOS: 2 and 5, and SEQ ID NOS: 4 and 6. SEQ ID NOS: 2 and 5 encode the light chain variable region of antibodies that bind L-selectin. SEQ ID NOS: 2 and 5 are 218 and 220 amino acids long, respectively, and they share more than 80% amino acid sequence identity (for example, amino acids 111-218 of SEQ ID NO:2 is identical to amino acids 113-220 of SEQ ID NO:5). SEQ ID NOS: 4 and 6 encode the heavy chain variable region of antibodies that bind L-selectin. SEQ ID NOS: 4 and 6 are 443 and 448 amino acids long, respectively, and they share about 90% amino acid sequence identity (for example, amino acids 106-443 of SEQ ID NO:4 is identical to amino acids 111-448 of SEQ ID NO:6).

Accordingly, Applicants request that the Examiner withdraw or revise the restriction requirement.

Respectfully submitted,

Date: November 3, 2003


Albert P. Halluin (Reg. No. 25,227)
Robin C. Chiang (Reg. No. 46,619)

HOWREY SIMON ARNOLD & WHITE, LLP

Box 34

301 Ravenswoods Avenue

Menlo Park, CA 95025

(650) 463-8109